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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,291	09/29/2003	Tatuhiko Tuchiya	9333-354	3112

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EXAMINER

WATKO, JULIE ANNE

ART UNIT PAPER NUMBER

2653

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,291

Applicant(s)

TUCHIYA, TATUHIKO

Examiner

Julie Anne Watko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-14 and 19-26 is/are rejected.
- 7) ☒ Claim(s) 6-9 and 15-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/29/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. Applicant cannot rely upon the foreign priority papers to overcome any rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Applicant is advised that should claims 2-9 be found allowable, claims 19-26 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. Furthermore, should claim 9 be found allowable, claim 18 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-3, 11-12, and 19-20 and their dependent claims 21-26 are rejected under 35

U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation “with the rotational center therebetween” in line 2. There is insufficient antecedent basis for the limitation “the rotational center” in the claims. Furthermore, the limitation “therebetween” is indefinite, insofar as it is unclear between what two parts the limitation refers.

Regarding claim 11: See above for claim 2.

Regarding claim 19: See above for claim 19.

For examination purposes, the claims will be treated as not reciting this indefinite limitation.

Claim 3 recites the limitation “an attitude set-up member is provided on both sides of the mechanism unit, respectively, and both attitude set-up members are connected together with the clamp mechanism therebetween.” There is insufficient antecedent basis for the limitation “both attitude set-up members”, insofar as a single attitude set-up member is recited as existing on both sides of the unit. The Examiner suggests -- [an] two attitude set-up members are [is] provided, one on [both] each side[s] of the mechanism unit[, respectively] --.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-5, 10-12 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Takamatsu et al (US Pat. No. 4628498).

Similar claims are treated together.

As recited in claims 1, 10 and 19, Takamatsu et al show a disk device comprising a mechanism unit, comprising: a rotational drive unit 35 for driving a disk; a clamp mechanism (including 39) for clamping the disk to the rotational drive unit; and a conveying mechanism (including 47) for conveying the disk toward the rotational drive unit, wherein the mechanism unit comprises an attitude set-up member (40, for example), which is connected to the clamp mechanism (via 38b) and the conveying mechanism (including 47) and rotates about an axis 42 parallel (see Fig. 3) to the surface of the disk mounted in the mechanism unit, and a drive mechanism (including 52) for applying a rotational force to the attitude set-up member, wherein when the attitude set-up member 40 rotates in a predetermined direction (see Fig. 4), the clamp mechanism is operated to cancel the clamping of the disk (see col. 7, lines 10-20), and the conveying mechanism is set to be able to convey the disk by the rotational force of the attitude set-up member (see col. 8, lines 20-23), and wherein when the attitude set-up member rotates in a direction opposite to the predetermined direction (see Fig. 8), the clamp mechanism is set to

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clamp the disk, and the conveying mechanism is set not to apply a conveying force to the disk by the rotational force of the attitude set-up member (see col. 8, lines 39-57).

As recited in independent claim 10, Takamatsu et al show an optical head 37 opposing the disk clamped to the rotational drive unit; and a head-transfer mechanism (including 36) for moving the optical head in the radial direction of the disk.

As recited in claims 2, 11 and 19, to the extent understood, Takamatsu et al show that one side of the attitude set-up member is directly connected to the clamp mechanism and the other side is directly connected to the conveying mechanism.

As recited in claims 3, 12 and 20, to the extent understood, Takamatsu et al show that two attitude set-up members (40 and 41) are provided, one on each side of the mechanism unit, respectively, and both attitude set-up members are connected together (via 47) with the clamp mechanism (including 39) therebetween.

As recited in claims 4 and 21, Takamatsu et al show that the conveying mechanism (including 47) is driven by the power of a motor 51 for driving the drive mechanism (including 52).

As recited in claims 5, 14 and 22, Takamatsu et al show a roller 47 for applying a conveying force to the disk and an arm (part of 40) for rotatably supporting the roller, and wherein by the rotational force of the attitude set-up member 40, the arm 40 is rotated, so that the roller 47 is moved to one of a position (see Fig. 6) where the roller contacts the disk and a position (see Fig. 9) where the roller is separated from the disk.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takamatsu et al (US Pat. No. 4628498).

Takamatsu et al show a device as described above.

As recited in claim 13, Takamatsu et al show that any one of the conveying mechanism (including 47) and the head-transfer mechanism (because this limitation is written in the alternative, driving the conveying mechanism suffices to meet this limitation) is driven by the power of a motor 51 for driving the drive mechanism (including 52).

As recited in claim 13, Takamatsu et al are silent regarding whether the mechanism unit comprises a switching mechanism for selectively transmitting the motor power to the conveying mechanism or to the head-transfer mechanism.

Official notice is taken of the fact that it was known in the art at the time the invention was made to drive a head transfer mechanism using the same motor as drives some other part of a disk device by providing a switching mechanism for selectively transmitting motor power to the head transfer mechanism or to the other part.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to drive a head transfer mechanism using the same motor as drives some other part of a disk device by providing a switching mechanism for selectively transmitting motor power to

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the head transfer mechanism or to the other part as is notoriously well known in the art. The rationale is as follows: one of ordinary skill in the art would have been motivated to decrease a cost, size and weight of the device by decreasing a number of motors, and to reduce timing failures caused by coordinating a large number of separate motors as is notoriously well known in the art.

Allowable Subject Matter

11. Claims 6-9 and 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 23-26 would be allowable if rewritten to overcome any rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lee et al (US PAP No. 2003/0090984 A1) show control rack 12 connected with roller unit 17 and clamp support 32.

Kobayashi et al (US Pat. No. 5084855) show movable cover operating arm 46, clamper arm 6 and driven roller 45.

Ikedo et al (US Pat. No. 5084854) show roller 11 pivotally supported by arm plate 13, wherein when an end of arm plate 13 is lowered, clamper attaching plate 39 is also lowered.

Manzke et al (US Pat. No. 4216510) show lever 9, clamping member 15 and roller 7 which cooperates with inclined surface 14 on roller 9.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Anne Watko whose telephone number is (571) 272-7597. The examiner can normally be reached on T11A-5PW3P-9PTh11:30A-10PF10A-8:30PSatNoon-8:30P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Julie Anne Watko
Primary Examiner
Art Unit 2653

March 5, 2006
JAW

A handwritten signature in black ink, appearing to read 'Julie Anne Watko', is written over the printed name and title.